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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,243	05/09/2005	Colin Brown	102790-121 (30063 US/2)	2664
27389	7590	05/20/2008	EXAMINER	
NORRIS, MCLAUGHLIN & MARCUS			BUSHEY, CHARLES S	
875 THIRD AVE			ART UNIT	PAPER NUMBER
18TH FLOOR			1797	
NEW YORK, NY 10022			MAIL DATE	DELIVERY MODE
			05/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,243	Applicant(s) BROWN ET AL.	
	Examiner Scott Bushey	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2008 and 28 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> |

Continuation of Attachment(s) 6). Other: Notice of Non-Compliant Amendment.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3, 4, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, independent claim 1, as currently amended, reads exclusively on the embodiment as illustrated by Figure 1 of the application, while dependent claims 3, 4, and 11, which depend directly from claim 1, read on the embodiments of Figures 4, 6, and 4, respectively, of the application. Whereas the embodiments of Figures 1, 4, and 6 contain mutually exclusive structures or configurations of elements, the language of claims 3, 4, and 11 conflicts with the limitations of independent claim 1, thereby reciting claim language indicative of hybrid apparatus of the specific embodiments which are disclosed. Accordingly, claims 3, 4, and 11 recite new matter relative to the original disclosure of the application, as originally filed. ***This is a new matter rejection.***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 4, 6, 7, and 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 4, and 11 are vague and indefinite in that they each present language that conflicts with that of independent claim 1, as set forth in paragraph 2 above.

Claim 4 is also vague and indefinite, since it requires the "blower" to be a "fan", whereas, page 10, lines 19-23 of the instant specification appear to disclose that they are mutually exclusive structures, wherein one cannot be considered to be the other.

In claim 6, the language bridging lines 7-8 does not make sense. Also, in claim 6, on line 3, "evaporatable", if such is even a word, is misspelled. Applicant may wish to replace "evaporatable" with "evaporable" throughout claim 6 to place claim 6 in agreement with the language of the other claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4, 6-8, and 10-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jane et al '615 (Fig. 4; col. 4, lines 11-30).

Jane et al '615, as previously applied clearly anticipates a vertically aligned wick (73) within a reservoir (66), wherein air flow through the device enters through inlets (38) in a horizontal direction, passes through the headspace of exposed wick, enters

separate manifold (45) in a horizontal direction under the influence of blower (41), and finally exits the blower and the separate manifold in a vertical direction through a plurality of vents within directing baffles (39), which are located within the separate manifold at the outlet end thereof. It is noted that applicant's claims certainly do not preclude the blower being located within the so-called "separate manifold". It is also noted that the instant specification states at page 4, lines 30-31, that the "manifold may be merely a chamber with an opening".

7. Claims 1, 3, 4, and 6-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jane et al '967 (Figs. 8-10; col. 4, lines 59-67; col. 5, lines 1-30).

Jane et al '967, as previously applied clearly anticipates a vertically aligned wick (32) within a reservoir (23), wherein air flow through the device enters through inlets (42) in a horizontal direction, passes through the headspace of exposed wick, enters blower (71) in a horizontal direction, exits the blower in a vertical direction and enters separate manifold (46) in a vertical direction under the influence of blower (71), and finally exits the separate manifold through a plurality of vents between directing baffles, which are located within the separate manifold (46) at the outlet end thereof. It is noted that the instant specification states at page 4, lines 30-31, that the "manifold may be merely a chamber with an opening".

Response to Arguments

8. Applicant's arguments with respect to claims 3, 4, 6, 7, and 9-11 have been considered but are moot in view of the new grounds of rejection.

9. Applicant's arguments filed January 31, 2008 and entered with the RCE filed March 28, 2008, relative to the rejections under 35 U.S.C. 102(b) as being clearly anticipated by either Jane et al '615 or Jane et al '967 have been fully considered but they are not persuasive. Specifically, with regard to the rejections over Jane et al '615, wick element (73) clearly extends axially from reservoir (66). Note the cited portions of the reference. Likewise, with regard to the rejections over Jane et al '967, wick element (30) clearly extends axially from evaporative cavity (23), which includes reservoir portion (51) and evaporative portion (50), the portions (50 and 51) which are in free flow fluid communication via open end of wall (49) at (49a). Figure 8 of the reference also clearly illustrates that the blower (71) is axially aligned with the evaporative reservoir (23,50,51). Note the cited portions of the reference.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Bushey
Primary Examiner
Art Unit 1797

/S. B./
5-18-08

/Scott Bushey/
Primary Examiner, Art Unit 1797